

### ***Remarks***

Based on the above amendments and the following remarks, Applicants respectfully request that the Examiner reconsider and withdraw the outstanding rejections. All amendments are made without prejudice or disclaimer. Applicants reserve the right to prosecute any unclaimed subject matter in this or another application. Consideration and entry of these amendments and remarks is respectfully requested.

### **Claim Status**

Upon entry of the foregoing amendments, claims 8-13, 56, and 70-76 are pending in the application, with claim 8 being the independent claim. Claims 1-7, 14-55, and 57-69 were previously cancelled. Claims 8 and 56 are currently amended in accordance with 37 C.F.R. 1.121 and claim 76 is sought to be added. Support for the claim amendments and new claim can be found throughout the Specification and in the claims as originally filed. See, for example, page 4, lines 5-14. Thus, no new matter is added by way of these amendments, and their entry is respectfully requested.

### **Rejection Under 35 U.S.C. § 102(b)**

Claims 8-13, 56 and 70-75 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Maudru *et al.*, *Journal of Virological Methods*, 66:247-261 (July 1997) (“Maudru”). Applicants respectfully traverse this rejection.

An anticipation rejection under 35 U.S.C. § 102 requires a showing that each limitation of a claim is found in a single reference, practice or device. See *Kalman v. Kimberly Clark Corp.*, 713

F.2d 760, 771 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984). See also M.P.E.P. 8th ed., § 2131 (rev. 2, May 2004) ("To anticipate a claim, the reference must teach every element of the claim."). Applicants respectfully maintain that Maudru does not teach a step whereby nucleic acid synthesis and ribonuclease treatment occur simultaneously. In this Office Action, it was alleged that step b of claim 8 did not clearly limit the method to simultaneous nucleic acid synthesis and ribonuclease treatment. Claim 8 has been amended to clearly indicate that step b) is performed such that nucleic acid synthesis and degradation of RNA occurs simultaneously. As amended, step b of claim 8 is performed "under conditions sufficient to simultaneously: 1) synthesize a nucleic acid molecule complementary to all or a portion of said double-stranded DNA; and 2) degrade said RNA." In contrast, Maudru only teaches that "it was necessary to include RNase digestion for 30 min at 37°C prior to PCR amplification" to eliminate variability and background signals (emphasis added) (see, e.g., Maudru, Section 2.2.2 (p. 250) and p. 257, lines 4-7). Maudru does not teach or in any way suggest performing simultaneous amplification and RNA degradation as instantly claimed.

For these reasons, Maudru does not teach a method that includes all of the steps encompassed by the currently presented claims. In particular, Maudru does not teach a step whereby ribonuclease treatment occurs simultaneously with nucleic acid synthesis. Thus, Maudru does not teach the present claims and, for at least this reason, Applicants respectfully request that the rejection of claims 8-13, 56 and 70-75 under 35 U.S.C. § 102(b) as being anticipated by Maudru, *et al.* be withdrawn accordingly.

***Conclusion***

Applicants believe that a full and complete reply has been made to the Final Office Action dated July 12, 2010 and that the pending claims are in condition for immediate allowance. If the Examiner feels for any reason that additional discussion is necessary, Applicant invites the Examiner to call the undersigned directly at the number listed below.

Date: December 13, 2010

Respectfully submitted,

/Bernadette M. Perfect/

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